## BEFORE NANCY KEENAN, SUPERINTENDENT OF PUBLIC INSTRUCTION STATE OF MONTANA

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CONTRACTOR OF THE STREET	AND THE RESIDENCE OF THE PARTY

OSPI NO. 258-95

Petitioner,

NOTICE AND ORDER

vs.

SCHOOL DISTRICT NO. 16/A HILL COUNTY, MONTANA

Respondent.

\* \* \* \* \* \* \* \* \* \* \* \*

Please take notice that Petitioners,
have filed an appeal from a decision of the Hill County
Superintendent. Petitioner states that the County Superintendent
did not have jurisdiction because is "a student with
disabilities" under the Individual with Disabilities Education Act,
(IDEA), 20 United States Code Sections 1400 through 1485. Parents
of an IDEA student may request the State Superintendent provide a
due process hearing under 10.60.102, Administrative Rules of
Montana, (ARM) and 10.16.2402, ARM which states in pertinent part:

"Impartial due process matters involving educating students with disabilities may be initiated by a parent ... of a student with disabilities if the parent disagrees with a decision of a school district for which notice to parents is required."

Petitioners, requested a due process hearing under IDEA by letter dated August 4, 1995. The State Superintendent will appoint a qualified due process hearing officer





to conduct the requested hearing. One of the first issues before the due process hearing officer will be to determine whether the matter raised by the sis a proper subject for a due process hearing under IDEA. Petitioners are entitled to either a due process hearing under IDEA or an appeal to the State Superintendent for review of the County Superintendent's decision, not both.

In the interest of effective use of state resources, the State Superintendent hereby stays the appeal of the County Superintendent's decision of lack of jurisdiction to hear the appeal of the decision of the Havre Board of Trustees under Section 20-3-107, Montana Codes Annotated (MCA) for a period of 45 calendar days from the date of this notice. At the end of that 45 day period, the State Superintendent will review the status of the IDEA due process hearing and schedule a telephone conference with the parties and, if necessary, establish a briefing schedule.

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DATED this 23 day of August, 1995.

## CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that on this 33 day of August, 1995, a true and exact copy of the foregoing NOTICE and ORDER was mailed, postage prepaid, to the following:



Board of Trustees School District 16/A P.O. Box 7791 Havre, MT 59501

Shirley Isbell County Superintendent Hill County Courthouse 315 4th Street Havre, MT 59501

David G. Rice County Attorney Hill County Courthouse 315 4th Street Havre, MT 59501

> Linda Brandon-Kjos, Paralegal Office of Public Instruction

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